

REPORT

Of the Committee on the Public Lands, to whom was referred, on the 9th of December last, sundry resolutions in relation to lands in the state of Louisiana.

JANUARY 12, 1824.

Read, and ordered to lie on the table.

The Committee on the Public Lands, to whom was referred, on the 19th of December last, sundry resolutions in relation to lands in the state of Louisiana,

REPORT:

Your Committee, as they have been instructed by the first of those resolutions, inquired into the expediency of extending the time limited for entering, with the Registers of the several districts in Louisiana, pre-emption rights to what are usually called back concessions, and of extending the existing provisions to other places than those mentioned in former laws on that subject. For the proper understanding of the nature of those back or double concessions, it is necessary to refer to the usages of the Spanish Government, and the reasons for making those concessions. The Spanish dominions in America were divided into provinces, under the direction of an Intendant, and military posts or districts, under the direction of a Commandant of the district. All applications for permission to settle in the Spanish dominions, were made to the Commandant, and all grants to land were made by petition in writing to the Intendant, through the commandant of the district. When the conditions of settlement and cultivation were certified by the Commandant to the Intendant, to have been complied with, and the surveys had been regularly certified and returned, a grant was obtained by the petitioner for the tract petitioned for, which, as it conceded the thing for which the petitioner had prayed, was often termed a concession. This grant was issued by the intendant of the province, in the name of the King. In different sections of the province, different modes of surveying the public lands were adopted, suited to the nature of the country. On the rivers and bayous in Louisiana, from eight to twelve arpens in front, and sometimes more, were allowed to a concession, with forty in depth, which was called a single concession. A usage appears to have existed, under the Spanish and French Go-

vernments, of granting, on the application of the proprietor of the land, fronting upon a river or bayou, what was called a double concession, or forty arpens in depth, in the rear of the original concession, and of the same width with the part fronting on the river; making in depth eighty arpens. Such grants were founded on certain conditions prescribed to, and to be performed by, the settler. The reasons for making such concessions, which, if generally extended, were in violation of the policy of the Spanish government, and well calculated to prevent a compact settlement of the country, were founded on the nature of the places where made, and generally confined to such places. In almost all the country now constituting the state of Louisiana, the lands on the margin of the rivers and bayous are higher than at a distance from them, and soon descend into marshes or cypress swamps. The alluvial lands, immediately on the banks of those rivers and bayous, are fit for habitation and cultivation, and the swamp lands, being wholly unfit for either, are well calculated to supply the front proprietors with timber. Thus, lands which were of no value to those who could neither inhabit or cultivate them, were of considerable value to those who owned the lands fronting on the rivers and bayous. The Government of the United States, having regard to the usage of the Spanish Government, passed the provision contained in the 5th section of the act of March 3, 1811, giving the right of preference in becoming the purchaser of forty arpens in the rear of grants recognized by the laws of the United States, when situated on any river, creek, bayou, or water course. Three years were given to file applications under the provisions of said act. This section was again revived, and continued in force for two years, by the act of the 11th of May, 1820, and again for eighteen months, by the act of the 28th of February, 1823, which limitation will not have expired until the 28th of February next. After such a time having been afforded for filing those claims, your committee know no good reason for its continuance beyond the period to which it is limited; nor can they discover any propriety in extending its provisions to a class of cases not embraced by former acts of Congress which they believe were founded on, and are in accordance with, the Spanish usage.

The second resolution instructs your committee to inquire into the expediency of causing patents to issue for lands, to persons within the state of Louisiana, whose titles and claims to lands have been confirmed by the several boards of commissioners acting under the authority of the United States. By referring to the act of Congress, of the 8th of April, 1814, it will be found, that it is made the duty of the Registers of the several land districts in Louisiana, to furnish the principal deputy surveyor of that district, with lists of the confirmed private claims, and it is also made the duty of such principal deputy, under the direction of the Surveyor South of Tennessee, to survey those claims, at the expense of the United States, which surveys are required to be returned to the several Registers, whose duty it is to forward them to the Commissioner of the General Land Office, with

the certificates of confirmation, whose duty it is made to make out the patents, and forward them to the Registers, for the use of the claimants. From this statement, it will appear, that, if any unaccountable or unreasonable delay has occurred, in issuing the patents to land in Louisiana, it cannot be attributed to any want of legislation on the part of Congress. Nor are the Committee in the least disposed to fix censure upon any one; but, in the absence of all other evidence, except the mere want of performance of the duties required by law, feel themselves bound to presume, that the delay in issuing patents has proceeded from the unsettled state of private claims to land in Louisiana; or from causes not heretofore evitable. This, they feel the more inclined to do, as they find a confirmation of private claims, on an examination made but a short time previously to such confirmation, at the last session of Congress. At all events, your Committee are unwilling, unless the most conclusive evidence were presented to them of wilful negligence or omission of duty, on the part of the President and officers of the Government, to add *commands* to what has already been prescribed as *duties*, by former acts of legislation.

By the third resolution, your Committee are required to inquire into the expediency of offering for sale, as speedily as possible, the public lands in the districts south and north of Red river. The increase and diminution in the demand for public lands, must always depend on the fluctuations in the state of the market for produce; the flourishing condition or destruction of crops; with the thousand causes which impel the tide of emigration to particular points. All these require that a discretion should be vested somewhere, as to the quantity of public lands which may, at any time, be exposed to sale, and the time when such sales are expedient. From the first sales of the public lands, until the present time, that discretion has been vested in the President of the United States, and, as your Committee believe, very properly. Your Committee cannot, therefore, consistently with their opinion of propriety, request Congress to take away that discretion from the President, and place it in Congress, necessarily bound to act by general rules, without regard to occurrences and emergencies, the effect of causes which essentially change the existing state of things, in a few months, weeks, or even days.

The fourth resolution requires your Committee to inquire into the expediency of creating a separate Surveyor General's District for the state of Louisiana. Your Committee do not believe, that any peculiar necessity exists for the establishment of such a District in Louisiana, which is not equally felt in the several states and territories of the United States where the public lands are, and, in relation to which, no such provision has been made. By a general resolution, the whole subject has been referred to your Committee, and will, in due time, be acted and reported on to the House.

By the fifth resolution, your Committee are instructed to inquire into the expediency of reducing the price of the public lands in the prairies of Louisiana, at a certain distance from wood and timber.

On this subject, your Committee must remark that, from the time the first public lands were offered for sale by the United States, until the present period, the minimum price has been, every where, the same. With this uniformity in price, your Committee are not disposed to recommend an interference. Reasons of a different kind, but no less cogent, have been urged for the reduction of the price of public lands in other places than Louisiana. Whenever the period arrives when Congress shall think proper to class the lands according to their relative value, or to reduce the price of the refuse lands, it is presumed, that some general provision will be made, embracing the subject of this resolution. In the mean time, we are not disposed to recommend any partial reduction, which might give just cause for dissatisfaction to the people where such privileges were not extended.

Your Committee, on an examination of the several subjects submitted by the resolutions, request the adoption of the following resolution:

Resolved, That the Committee on the Public Lands be discharged from the further consideration of the several resolutions submitted to them, in relation to lands in Louisiana, on the 9th of December last.